

IN RE: PETITIONS FOR SPECIAL HEARING AND SPECIAL EXCEPTION - NE/CORNER Baltimore National Pike and Winters Lane 1st Election District 1st Councilmanic District Wardell Barber Petitioner

\* BEFORE THE ZONING COMMISSIONER \* OF BALTIMORE COUNTY \* Case No. 89-237-SPHX

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing to approve the nonconforming use of the subject property for a service station and seven parking spaces on that portion of the property zoned D.R. 5.5, and a special exception for a food mart use in combination with the existing service station, as more particularly described in Petitioner's Exhibit 1.

The Petitioner, by John Johnson, Territory Manager for Shell Oil Company, Lessee/Contract Purchaser of the subject property, appeared, testified and was represented by J. Neil Lanzi, Esquire. Also appearing on behalf of the Petition were Todd V. Suhre, project engineer for Shell Oil Company, and Raymond Hnatt, Operator of the subject service station. There were no Protestants.

Testimony indicated that the subject property, known as 5932 Baltimore National Pike, is split zoned B.R. and D.R. 5.5 and is improved with an existing service station currently leased by Shell Oil Company. The subject property is located at the corner of Baltimore National Pike and Lincoln Avenue. Testimony indicated that the subject property was granted a special exception for a service station on May 8, 1958 in Case No. 4406-RX. The Contract Purchaser proposes utilizing approximately 390 sq.ft. of the existing service station for use as a convenience food store as set forth in Petitioner's Exhibit 1. Mr. Hnatt testified that custom-

ers of the service station are in favor of the proposed food store and that he has not received any complaints regarding the proposed use from members of the community. He testified that there are no existing traffic problems and that in his opinion the proposed food store will not create any congestion in neighboring roads.

Mr. Suhre testified an investigation into the history of the subject site revealed the zoning lines for the subject property have been moved over the years resulting in its present split zoning of B.R. and D.R. 5.5. Currently, the D.R. 5.5 zone line runs through the parking area as shown in Petitioner's Exhibit 1 and results in seven of the required parking spaces being located in the D.R. 5.5 zone. Testimony presented indicated the proposed food store will meet the requirements of Section 502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) and will not result in any adverse impact upon the health, safety or general welfare of the community. Mr. Suhre testified the proposed food store would not create a potential hazard from fire, panic, or other dangers or tend to overcrowd the land and cause undue concentration of population. Testimony indicated the utility use at the subject location would remain substantially the same with a slight increase in electrical use. Further testimony indicated that landscaping and streetscaping of the subject property would be provided in accordance with Baltimore County Planning and Zoning requirements.

It is clear that the B.C.Z.R. permits the use proposed in the B.R. and D.R. 5.5 zones by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

-2-

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

Testimony presented substantiated the property's continuous use as a service station since 1959 and that the parking spaces located in the D.R. 5.5 zoned portion of the subject property have been used continuously and without interruption for service station customers since at least 1959. Further testimony indicated the seven parking spaces are needed to service the gas station and proposed food store operation to comply with the parking requirements of the B.C.Z.R. Testimony indicated the continuation of the nonconforming use of the seven parking spaces would not be inconsistent with the purposes of the property's zoning classification nor in any way be inconsistent with the spirit and intent of the B.C.Z.R. The evidence clearly establishes the continued use of the parking spaces for

-3-

commercial purposes will not be detrimental to the health, safety or general welfare of the community.

After reviewing all of the testimony and evidence presented, it appears that the relief requested in the special exception should be granted and that a nonconforming use of the subject property as a service station with seven parking spaces located in a D.R. 5.5 zone exists.

Pursuant to the advertisement, posting of the property, and public hearing on these Petitions held, and for the reasons given above, the Petitions for Special Hearing and Special Exception should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 26th day of January, 1989 that the Petition for Special Hearing to approve the nonconforming use of the subject property for a service station and seven parking spaces on that portion of the property zoned D.R. 5.5, and the Petition for Special Exception for a food mart use in combination with the existing service station, in accordance with Petitioner's Exhibit 1, be and are hereby GRANTED from and after the date of this Order, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- 2) Petitioner shall comply with all requirements of the Zoning Plans Advisory Committee as set forth in their comments submitted hereto and made a part hereof, including, but not limited to, the Department of Environmental Protection and Resource Management comments dated October 25, 1988 and the Office of Planning comments dated December 7, 1988.

-4-

- 3) Prior to the issuance of any permits, the required streetscape and landscaping plans must be reviewed and approved by the Office of Planning. A copy of said plans shall be submitted to the Zoning Commissioner for inclusion in the case file.

JRH:bjs

CERTIFICATE OF POSTING  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District 1st Date of Posting November 23, 1988  
Posted for: Special Exception - Special Hearing  
Petitioner: Wardell Barber  
Location of property: NE/CORNER Baltimore National Pike and Winters Lane  
(5932 Baltimore National Pike)  
Location of Sign: In front of 5932 Baltimore National Pike  
Remarks: J. Robert Haines Date of return: November 25, 1988  
Posted by: J. Robert Haines  
Number of Signs: 2

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
410-323-8877  
J. Robert Haines  
Zoning Commissioner

January 26, 1989



Dennis F. Rasmussen  
County Executive

J. Neil Lanzi, Esquire  
25 W. Chesapeake Avenue, Suite 204  
Towson, Maryland 21204  
RE: PETITIONS FOR SPECIAL HEARING AND SPECIAL EXCEPTION  
NE/CORNER Baltimore National Pike and Winters Lane  
(5932 Baltimore National Pike)  
1st Election District - 1st Councilmanic District  
Wardell Barber - Petitioner  
Case No. 89-237-SPHX

Dear Mr. Lanzi:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Special Exception have been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

J. Robert Haines  
J. ROBERT HAINES  
Zoning Commissioner  
for Baltimore County

JRH:bjs

cc: People's Counsel

File

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 89-237-SPHX

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 502.1 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve

A non-conforming use in that: (1) A Special Exception was granted on 5/8/58 in Case # 4406-RX, by John G. Rose, Commissioner, allowing use of said property as a service station and (2) seven (7) parking spaces have existed since 5/8/58 in that portion of said property zoned residential (DRS.5).  
Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

Earl J. Hale - Shell Oil Company

(Type or Print Name)

Signature

Two Penn's Way - Suite 401

Address

New Castle, DE 19720

City and State

Signature

Signature

Signature

Signature

Signature

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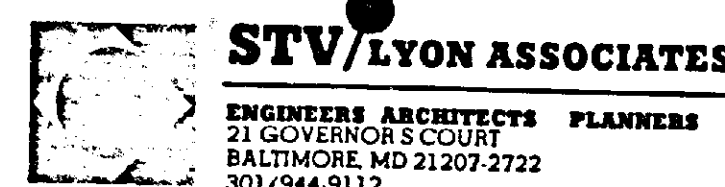
Signature

Signature

Signature

Signature





ZONING DESCRIPTION FOR  
SHELL OIL COMPANY  
NO. 5932 BALTIMORE NATIONAL PIKE  
ELECTION DISTRICT NO. 1  
BALTIMORE COUNTY, MARYLAND

BEGINNING at a point along the northerly side of Baltimore National Pike, U.S. Route No. 40, (150 feet wide), at the beginning of a fillet (site flare) at Winters Lane, thence leaving Baltimore National Pike and running with said fillet,

1. North 50°02'50" West 34.56 feet to a point along the southeasterly side of Winters Lane (50 feet wide), thence along same,
2. North 10°13'30" East 133.24 feet, thence leaving Winters Lane and running,
3. South 78°33'30" East 93.97 feet, thence,
4. South 11°26'30" West 5.00 feet, thence,
5. South 78°33'30" East 100.00 feet to a point on the westerly side of Lincoln Avenue, (50 feet wide), thence along the same,
6. South 11°26'30" West 43.49 feet at the point of beginning of a fillet (site flare) with said Baltimore National Pike, thence along said fillet,
7. South 41°54'00" West 20.32 feet to a point along said northerly side of Baltimore National Pike, thence along same,
8. South 72°21'30" West 172.17 feet to the point of beginning ... containing 20,804 square feet or 0.4776 acre of land, more or less.

Mark A. Riddle August 9, 1988  
STV/LYON ASSOCIATES  
Mark A. Riddle  
MD Reg. Property Line Surveyor No. 244



STV ENGINEERS, Architects, Engineers, Planners, Interior Designers, Professional Member Firms STV/Michael Lyon & Associates  
STV/Lyon Associates STV/Management Consultants STV/H.D. Nottingham STV/Sanders & Thomas STV/Seay Stevenson Value & Kirsch

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER  
PETITION FOR SPECIAL HEARING  
NE Corner Baltimore Nat'l Pike & Winters Lane, (5932 Baltimore Nat'l Pike), 1st Election Dist. : OF BALTIMORE COUNTY  
1st Councilmanic Dist.

WENDELL BARBER, Petitioner Case No. 89-237-SPHX

#### ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final order.

Phyllis Cole Friedman  
Phyllis Cole Friedman  
People's Counsel for Baltimore County

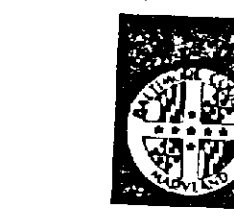
Peter Max Zimmerman  
Deputy People's Counsel  
Room 304, County Office Building  
Towson, Maryland 21204  
494-2188

I HEREBY CERTIFY that on this 28th day of November, 1988, a copy of the foregoing Entry of Appearance was mailed to J. Neil Lanzl, Esquire, 25 W. Chesapeake Ave., Towson, MD 21204, Attorney for Petitioner; and Earl J. Hale, Shell Oil Co., Two Penn's Way, Suite 401, New Castle, DE 19720, Contract Purchaser.

Peter Max Zimmerman  
Peter Max Zimmerman

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-2333 XXXX 887-3353  
J. Robert Haines  
Zoning Commissioner

Date: 12/2/88



Dennis F. Rasmussen  
County Executive

Re: Petitions for Special Hearing and Special Exception  
CASE NUMBER: 89-237-SPHX  
NE Corner Baltimore National Pike and Winters Lane  
(5932 Baltimore National Pike)  
1st Election District - 1st Councilmanic  
Legal Owner(s): Wendell Barber  
Contract Purchaser(s): Shell Oil Company  
HEARING SCHEDULED: FRIDAY, DECEMBER 16, 1988 at 9:30 a.m.\*

Dear Mr. Lanzl:

Please be advised that \$15.04 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204, 45 minutes before

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT  
No. 059751

DATE	12/1/88	ACCOUNT	011-015
RECEIVED FROM	Robert J. Lanzl, Esq.		
AMOUNT	\$ 15.04		
FOR	Posting & Signage 89-237-SPHX		
B C R F *****115544a 2112F			
VALIDATION OR SIGNATURE OF CASHIER			

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Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-2333 XXXX 887-3353  
J. Robert Haines  
Zoning Commissioner

November 7, 1988

#### NOTICE OF HEARING



Dennis F. Rasmussen  
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petitions for Special Hearing and Special Exception  
CASE NUMBER: 89-237-SPHX  
NE Corner Baltimore National Pike and Winters Lane  
(5932 Baltimore National Pike)  
1st Election District - 1st Councilmanic  
Legal Owner(s): Wendell Barber  
Contract Purchaser(s): Shell Oil Company  
HEARING SCHEDULED: FRIDAY, DECEMBER 16, 1988 at 9:30 a.m.\*

Special Exception: A food mart use in combination with existing service station. Special Hearing: A non-conforming use in that (1) a Special Exception was granted on 5/8/58 case #406-RX, by John G. Rose, Commissioner, allowing use of said property as a service station and (2) seven (7) parking spaces have existed since 5/8/58 in that portion of said property zoned residential (ORS-5).

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines

J. ROBERT HAINES  
Zoning Commissioner of  
Baltimore County  
cc: J. Neil Lanzl, Esq.  
File

\*NOTE:  
IF PHASE II OF THE  
SNOW (EMERGENCY) PLAN  
IS IN EFFECT IN BALTI-  
MORE COUNTY BY 8:30  
a.m. ON THE DATE OF  
THE ABOVE HEARING,  
SUCH HEARING WILL BE  
POSTPONED AND TENTA-  
TIVELY RESCHEDULED  
FOR THURSDAY, JANUARY  
12, 1989. PLEASE TELE-  
PHONE DOCKET CLERK  
AT 887-3391 TO CONFIRM  
DATE.



#### NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petitions for Special Hearing and Special Exception  
CASE NUMBER: 89-237-SPHX  
NE Corner Baltimore National Pike and Winters Lane  
(5932 Baltimore National Pike)  
1st Election District - 1st Councilmanic  
Legal Owner(s): Wendell Barber  
Contract Purchaser(s): Shell Oil Company  
HEARING SCHEDULED: FRIDAY, DECEMBER 16, 1988 at 9:30 a.m.\*

Special Exception: A food mart use in combination with existing service station. Special Hearing: A non-conforming use in that (1) a Special Exception was granted on 5/8/58 case #406-RX, by John G. Rose, Commissioner, allowing use of said property as a service station and (2) seven (7) parking spaces have existed since 5/8/58 in that portion of said property zoned residential (ORS-5).  
IF PHASE II OF THE SNOW (EMERGENCY) PLAN IS IN EFFECT ON THE DATE OF THE ABOVE HEARING, SUCH HEARING WILL BE POSTPONED AND TENTATIVELY RESCHEDULED FOR THURSDAY, JANUARY 12, 1989. PLEASE TELEPHONE DOCKET CLERK AT 887-3391 TO CONFIRM DATE.

J. ROBERT HAINES  
Zoning Commissioner of Baltimore County

#### CERTIFICATE OF PUBLICATION

TOWSON, MD., November 20, 1988

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on November 24, 1988.

CATONSVILLE TIMES  
THE JEFFERSONIAN,

PO 05889 S. Zebe Olson  
reg M20479  
case 89-237-SPHX  
price \$85.04 CFS  
Publisher

89-237-SPHX

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING  
County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

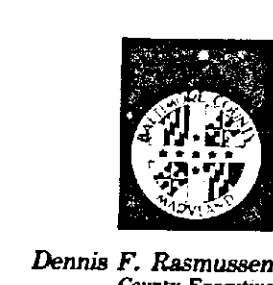
Your petition has been received and accepted for filing this 26th day of October, 1988.

Wardell Barber/L.O.  
Petitioner's Attorney  
Received by: James E. Dyer  
Chairman, Zoning Plans Advisory Committee

Baltimore County  
Fire Department  
Towson, Maryland 21204-2586  
494-4300  
Paul H. Reincke  
Chief

December 2, 1988

J. Robert Haines, Zoning Commissioner  
Office of Planning & Zoning  
Baltimore County Office Building  
Towson, Maryland 21204



Dennis F. Rasmussen  
County Executive

Re: Property Owner: Contract Purchaser - Shell Oil Co.  
Legal Owner - Wardell Barber  
Location: NE/C Balto. Nat'l. Pike & Winters La.  
5932 Balto. Nat'l. Pike  
Item No.: 155 Zoning Agenda: Meeting of 10/25/88

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- ( ) 1. Fire hydrants for the referenced property are required and shall be located at intervals of \_\_\_\_\_ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- ( ) 2. A second means of vehicle access is required for the site.
- ( ) 3. The vehicle dead end condition shown at \_\_\_\_\_ EXCEEDS the maximum allowed by the Fire Department.
- (X) 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- (X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.
- ( ) 6. Site plans are approved, as drawn.
- ( ) 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: [Signature] NOTED & APPROVED: [Signature]  
Planning Group Fire Prevention Bureau  
\*NFPA 30, 1981 Edition, Section 7-8.4.3 attendant's primary duty is to supervise dispensing of Class I Liquids.

#### BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

December 6, 1988

COUNTY OFFICE BLDG.  
111 W. Chesapeake Ave.  
Towson, Maryland 21204

MEMBERS

- Bureau of Engineering
- Department of Traffic Engineering
- State Roads Commission
- Bureau of Fire Prevention
- Health Department
- Project Planning
- Building Department
- Board of Education
- Zoning Administration
- Industrial Development

RE: Item No. 155; Case No. 89-237-SPHX  
Petitioner: Legal Owner - Wardell Barber  
Contract Purchaser - Shell Oil Co.  
Petition for Special Hearing & Special Except.

Dear Mr. Lanzl:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

James E. Dyer  
Chairman  
Zoning Plans Advisory Committee

JED:scj

Enclosures



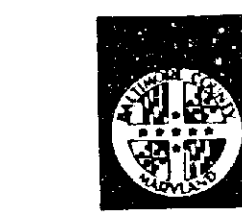
BALTIMORE COUNTY DEPARTMENT OF ENVIRONMENTAL  
PROTECTION AND RESOURCE MANAGEMENT  
10/25/88  
Date  
Zoning Commissioner  
Office of Planning and Zoning  
County Office Building  
Towson, Maryland 21204  
Zoning Item # 155, Zoning Advisory Committee Meeting of October 25, 1988  
Property Owner: Wardell Barker District 1  
Location: 5932 Baltimore Natl. Pike  
Water Supply Metro Sewage Disposal Metro

COMMENTS ARE AS FOLLOWS:  
( ) Prior to approval of a Building Permit for construction, renovation and/or installation of equipment for any existing or proposed food service facility, complete plans and specifications must be submitted to the Plans Review Section, Bureau of Regional Community Services, for final review and approval.  
( ) Prior to new installation of fuel burning equipment, the owner shall contact the Bureau of Air Quality Management, 494-3775, to obtain requirements for such installation before work begins.  
( ) A permit to construct from the Bureau of Air Quality Management is required for such items as spray paint processes, underground gasoline storage tanks (5,000 gallons or more), and any other equipment or process which exhausts into the atmosphere.  
( ) A permit to construct from the Bureau of Air Quality Management is required for any charbroiler operation which has a total cooking surface area of five (5) square feet or more.  
( ) Prior to approval of a Building Permit Application for renovations to existing or construction of new health care facilities, complete plans and specifications of the building, food service of food and type of equipment to be used for the food service operation must be submitted to the Baltimore County Department of Environmental Protection and Resource Management for review and approval. For more complete information, contact the Recreational Hygiene Section, Bureau of Health and Mental Hygiene for review and approval.  
( ) Prior to any new construction or substantial alteration of public swimming pool, wading pool, bathhouse, saunas, whirlpools, hot tubs, water and sewerage facilities or other amusements pertaining to health and safety, two (2) copies of plans and specifications must be submitted to the Baltimore County Department of Environmental Protection and Resource Management for review and approval. For more complete information, contact the Recreational Hygiene Section, Bureau of Health and Mental Hygiene for review and approval.  
( ) Prior to approval for a nursery school, owner or applicant must comply with all Baltimore County of Regional Community Services, 494-3811.  
( ) Prior to more complete information, contact the Division of Material and Child Health.  
( ) If lubrication work and oil changes are performed at this location, the method providing for the elimination of waste oil must be in accordance with the State Department of the Environment.  
( ) Prior to razing of existing structures, petitioner must contact the Division of Waste Management at 494-3768, regarding removal and/or disposal of potentially hazardous materials and solid wastes. Petitioner must contact the Bureau of Air Quality Management regarding removal of asbestos, 494-3775.  
( ) Any abandoned underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and tank removed from the property or properly backfilled. Prior to removal or abandonment, owner must contact the Division of Waste Management at 494-3768.  
( ) Soil percolation tests, have been conducted. Petitioner should contact the Division of Water and Sewer to determine whether additional tests are required.  
( ) Where water wells are to be used as a source of water supply, a well meeting the minimum Baltimore County Standards must be drilled.  
( ) In accordance with Section 13-117 of the Baltimore County Code, the water well yield test ( ) shall be valid until ( ) is not acceptable and must be repeated. This must be accomplished prior to conveyance of property and approval of Building Permit Applications.  
( ) Prior to occupancy approval, the potability of the water supply must be verified by collection of bacteriological and chemical water samples.  
( ) If submission of plans to the County Review Group is required, a Hydrogeological Study and an Environmental Effects Report must be submitted.  
( ) Others: If interior alterations require removal of walls, pipes or plumbing fixtures, an inspection to determine the presence of asbestos may be required.

Karen M. Merrey  
BUREAU OF WATER QUALITY AND RESOURCE  
MANAGEMENT

Baltimore County  
Department of Public Works  
Bureau of Traffic Engineering  
County Office Building  
Towson, Maryland 21204  
494-3554

October 28, 1988



Dennis P. Rasmussen  
County Executive

Mr. J. Robert Haines  
Zoning Commissioner  
County Office Building  
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 440, 58, 102, 128, 144, 145, 147, 150, 151, 153, 154, 155, 156, and 157.

Very truly yours,

Michael S. Flanigan  
Michael S. Flanigan  
Engineering Associate

Richard H. Trainor  
Secretary  
Hal Kassoff  
Administrative



Maryland Department of Transportation  
State Highway Administration

November 1, 1988

Re: Baltimore County  
Shell Oil Company  
Zoning meeting 10/25/88  
N/S Baltimore National  
Pike  
US 40-E and  
Winters Lane  
Item #155

Mr. J. Robert Haines  
Zoning Commissioner  
County Office Building  
Towson, Maryland 21204  
Att: James Dyer

Dear Mr. Haines:

After reviewing the submittal for a special exception for a food mart use in combination with existing service station, we find the plan acceptable.

Very truly yours,

Frank J. Mills, Jr.  
Frank J. Mills, Jr.  
Chief Bureau of Engineering  
Access Permits

LB/es

cc: STV/Lyon Associates  
Mr. J. Ogil

present customers are in favor of the proposed food store and that he has not received any complaints against the station from members of the neighborhood. Mr. Hnatt also testified that no problems presently exist with traffic in and out of his station and that he did not anticipate congestion in the roads, streets or alleys as a result of the proposed food store.

Todd Suhre testified that the food store use would not be detrimental to the health, safety or general welfare of the community, nor would it tend to create congestion in the road, streets or alleys. Todd Suhre also indicated that the food store would not create a potential hazard from fire, panic, or other dangers or tend to overcrowd land and cause undue concentration of population. Todd Suhre testified that his testimony concerning the size of the building, traffic congestion and utility use would be substantially the same testimony as in Case no. 69-236-XA (hearing held immediately before Case #89-237-SPHX) involving a Special Exception Petition for a food mart use in combination with an existing Shell service station. Todd Suhre's testimony in the previous case, as verified in the present case before the Commissioner, was that the utility use would remain substantially the same with a slight increase in electrical use. The food store/sales room section of the service station building would be substantially the same size, in this case 390 square feet of retail sales area. Todd Suhre further testified that the proposed use would not interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public

Selland & Jednorski, P.A.  
ATTORNEYS AT LAW  
SUITE 204  
28 W. CHESTER AVE.  
TOWSON, MD 21204  
13011 321-4200

IN RE: PETITION FOR SPECIAL  
EXCEPTION  
PETITION FOR SPECIAL HEARING  
5932 Baltimore National Pike  
(N.E. corner Baltimore National  
Pike and Winter's Lane)  
SHELL OIL COMPANY  
Petitioner

\* BEFORE THE ZONING  
\* COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* CASE NO. 89-237-SPHX

MEMORANDUM IN SUPPORT OF PETITION FOR SPECIAL EXCEPTION  
AND PETITION FOR SPECIAL HEARING

This case is before the Zoning Commissioner of Baltimore County on a Petition for Special Exception and Petition for Special Hearing. Shell Oil Company, Petitioner ("Shell Oil") has requested a Special Exception to allow a food store use in combination with the existing service station under the zoning laws and zoning regulations of Baltimore County. Shell Oil has requested a Petition for Special Hearing to allow the continued use of commercial parking in a DR 5.5 zoned section of the subject property as a non-conforming use under the zoning laws and zoning regulations of Baltimore County.

Shell Oil is the lessee/contract purchaser of the property known as 5932 Baltimore National Pike. A hearing was held on these matters before J. Robert Haines, Esquire, the Zoning Commissioner for Baltimore County, on December 16, 1988. Several witnesses testified on behalf of the Petitioner, including Todd Suhre, project engineer for Shell Oil, John Johnson, Territory Manager for Shell Oil and Raymond Hnatt, operator of the subject service station.

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requirements and that the food store would not interfere with adequate light and air. Finally, Todd Suhre indicated that the food store would not be inconsistent with the impermeable surface and vegetative retention provisions of the zoning regulations. Counsel for Petitioner proffered that the testimony of John Johnson and any further testimony by Raymond Hnatt would establish that the remaining requirements of Section 502.1 B.C.Z.R. were met.

Todd Suhre testified that Shell Oil would be willing to comply with Baltimore County, Office of Planning and Zoning requirements for landscaping and streetscaping of the subject property. It should be noted that the concerns of Deputy Director Pat Keller and the Office of Planning and Zoning are being resolved to the satisfaction of Baltimore County and the Petitioner.

There were no protestants to the Special Exception Petition nor any objections from the various reviewing state and county agencies. The facts presented do not show that the proposed food mart use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts 432 A.2d 1319 (1981). Testimony presented established that the food store proposal would not be detrimental to the health, safety, or general welfare of the community and would

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A Plat prepared by STV/Lyon Associates (Engineers, Surveyors, and Planners), dated September 20, 1988 was submitted as Petitioner's Exhibit 1. Todd Suhre, project engineer for Shell Oil, testified that he had visited the subject property as recently as December 15, 1988 and that the service station was accurately represented by the Plat before the Commissioner. It was proffered by counsel for the Petitioner that the property was zoned Business Roadside (BR) and Density Residential 5.5 dwelling units per acre (DR 5.5). Approximately two-thirds of the property, including the existing service station building, service bays and fuel islands are located on the BR zoned section of the subject property.

A summary of the map history for the subject property may also be helpful in this case. On May 8, 1958 in zoning case 4406-RX, Commissioner John Rose granted a Petition for Reclassification of the subject property from a R-6 zone to a BL zone and granted a Special Exception for use of the property as a gas station. A review of the zoning map and description indicates that the entire property was reclassified from R-6 to BL.

Further investigation of the zoning maps and records, specifically 1-BR-14 and 1-R6-37, revealed that the zoning classification for the entire property was subsequently changed from BL to BR. This zoning change was verified by a document on file in the Office of Planning and Zoning of Baltimore County, Maryland entitled, "Metes and Bounds Description of Boundaries

not be inconsistent with the property's zoning classification or with the spirit and intention of the Baltimore County Zoning Regulations.

#### NON-CONFORMING USE

A non-conforming use is defined in the B.C.Z.R., Section 101 as:

"A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective, "non-conforming" is a non-conforming use."

Section 104 of the B.C.Z.R., subject to certain restrictions, allows a non-conforming use to continue provided that the non-conforming use was not changed to any other use, abandoned or discontinued for a period of one year or more.

The subject property was zoned R-6 prior to May 8, 1958. On May 8, 1958, the entire property was reclassified from an R-6 zone to a BL zone. The zoning history provided earlier in this Memorandum indicates that the property was rezoned from BL to BR per the Comprehensive Rezoning Map of the Western Planning Area adopted by the Baltimore County Council on December 5, 1961. Finally, the property was rezoned from BR to the present BR/DR5.5 zoning per the March, 1971 Baltimore County Zoning Map SW-2F. Exhibit 1 contains the present zoning boundaries which shows the commercial use parking spaces one through five and part of spaces seven and eight located in the DR5.5 section of the property.

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of Zones on Comprehensive Rezoning Map of the Western Planning Area comprising the Second Election District and Portions of the First and Third Election Districts of Baltimore County, adopted by the County Council of Baltimore County, Maryland on December 5, 1961". Bill Number 21, Legislative Session 1961, as corrected by Bill Number 171, Legislative Session 1962 made corrections to errors contained in the Comprehensive Rezoning Map for the Western Planning Area.

Baltimore County Zoning Map SW-2F indicated that in March, 1971, the subject property's zoning was changed from BR to the present zoning of BR and DR5.5. The zoning map and property description revealed that the DR5.5 zone boundary is one hundred feet (100') parallel from the center line of Lincoln Avenue as represented on Exhibit 1.

A review of the zoning maps from 1976, 1980 and 1984 indicate the zoning boundaries have remained the same for the subject property since March, 1971.

#### SPECIAL EXCEPTION

A food store use in combination with an existing service station in a BR zoned property is permitted by Special Exception under section 405.4D(8) of the Baltimore County Zoning Regulations ("B.C.Z.R."). Testimony by Todd Suhre, John Johnson and Raymond Hnatt established that the proposed sales room conversion to a food store will meet the requirements of Section 502.1 of the B.C.Z.R. without any adverse effect on the health, safety or general welfare of the community. Raymond Hnatt, the station operator since 1959, testified that his

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Testimony by Raymond Hnatt, operator and Todd Suhre, project engineer, established that the required elements of Section 502.1 were satisfied and that there would be no detriment to the health, safety or general welfare of the community. Todd Suhre testified that the non-conforming use,

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Based upon the testimony, exhibits attached hereto and the Baltimore County Zoning Regulations, Petitioner requests that the Special Exception for a food store use in combination with the existing service station and the Special Hearing

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Mr. Neil Lanzi  
Seiland and Jednorski, P.A.  
25 W. Chesapeake Avenue  
Suite 204  
Towson, Maryland 21204  
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CERTIFICATE OF SERVICE

I hereby certify that on this 11<sup>th</sup> day of January, 1989 a copy of the foregoing Memorandum in Support of Petition for Special Exception and Petition for Special Hearing was mailed to Phyllis Cole Friedman, Esquire, People's Counsel for Baltimore County, Room 304, County Office Building, Towson, Maryland 21204.

Neil Lang  
J. Neil Lang

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—  
(410) 284-0000

03-58 (REV. 10-23-83)

• \*LOCALITY STATE RECORD

EFFECTIVE DATE <b>9/1/89</b>		PATROR HRT. NO. <b>87 2 2</b>		NEW RECORD NO. <b>870024</b>		ISSUE NO. <b>11</b>	
DISTRICT <b>221</b>		TYP. ACTIVITY <b>01</b>		LOCATION NO. <b>01</b>		219-0378-5802	
<input checked="" type="checkbox"/> DOCUMENT <input type="checkbox"/> FILE		<input checked="" type="checkbox"/> BOOK <input checked="" type="checkbox"/> INDEX		<input checked="" type="checkbox"/> FOLLOW UP <input type="checkbox"/> OFFICE		4/15/94	
DISTRIBUTOR <b>Wilmington</b>		Eastern - TSP - P. Peis OTHER (Specify) <b>Territory Manager - 01</b> <b>Atlanta Admin. Ctr. - K. Andrzejewski</b>					
PROPERTY ACCOUNTING - Rents							
REASON ISSUED <input type="checkbox"/> NEW LOCATION		<input type="checkbox"/> ESTABLISH MIG.		<input type="checkbox"/> CHANGE ACTIVITY		<input type="checkbox"/> CANCEL LATION	
AREA OF CHANGE <input type="checkbox"/> PROPERTY DATA		<input checked="" type="checkbox"/> CONTRACT DATA		<input type="checkbox"/> OTHER		<input checked="" type="checkbox"/> OTHER (Specify)	
EXPLANATION <b>Exercise one (1) five (5) year renewal option.</b>							
PROPERTY DATA							
STATUS <b>Operating</b>		STATUS INDICATOR (Class of Trade)		SVC. STA. CHARACTERISTICS CODE			
STREET/ADDRESS <b>5932</b>		CITY, STATE AND ZIP CODE <b>Baltimore, MD 21228</b>		COUNTY <b>Baltimore</b>			
TYPE OF DEAL <b>LB</b>		TYPE OF USE <b>Service Station</b>		TYPE IMPROVEMENT <b>3 Bay Ranch</b>			
FINANCIAL AMT. OF LOAN		INT. RATE, %		NO. YEAR		PROPERTY DIMENSIONS <b>198' Balt. Nat. Pk (US 40) x 145' Winters Ln.</b>	
CONTRACT DATA							
LESSOR <del>XXXXXX</del> <b>Wardell Barber</b>				FEDERAL IDENTIFICATION NO.		LESSOR OWNS PROP. <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
ADDRESS <b>Route 4 - Box 251 W</b>							
CITY, STATE AND ZIP CODE <b>Winnnebros, SC 29180</b>							
PAYABLE TO <input type="checkbox"/> LESSOR <input type="checkbox"/> OTHER (Specify)							
ADDRESS <input checked="" type="checkbox"/> SAME AS ABOVE <input type="checkbox"/> OTHER (Specify)							
RENTAL FEE		PAYABLE TO LESSOR <b>\$900.00 (Thru 8/31/89); \$1,000.00 (9/1/89 Thru 8/31/94)</b>					
RATE PER MONTH		PAYABLE TO OTHER					
PAYABLE <input type="checkbox"/> FIRST IN ADVANCE <input type="checkbox"/> OTHER (Specify)							
TERM <b>35</b>		YEARS <b>FROM 8/31/59 TO 8/31/94</b>		AUTOMATIC		TO <b>LEASE XXXX DATE 7/15/94</b>	
TO RENEW TERM <b>3 - 5 Yr.</b>		RENTALS <b>(2) (3)</b>		MYS. NOTED <b>45</b>		MONTHLY OPTION <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
OPTIONS FIRST REFUGAL <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		CANCELLATION BY SELLER <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		DAYS NOTICE <b>45</b>		PRICE (\$) <b>7/15/94</b>	
SHELL <input checked="" type="checkbox"/> LAND <input type="checkbox"/> IMP. <input type="checkbox"/> JOF		REIMBURSE LESSOR <input type="checkbox"/> LAND <input type="checkbox"/> IMP. <input type="checkbox"/> JOF		MAX. AMOUNT <b>\$</b>		LESSOR <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
SPECIAL PROVISIONS, CONDITIONS, AND REMARKS <b>Issued to Indicate Lease extended 5 years (from 8/31/89) by exercise of 5 year renewal per proposal dated 12/29/87 signed by E. J. Hale.</b>							
APPROVALS							
PREPARED BY (Type, Off, Divn) <b>Wilmington Dist.</b>		DATE <b>12/30/87</b>		VERIFIED BY <b>R. O. King</b>		DATE <b>1/4/88</b>	
				APPROVED BY <b>E. J. Hale</b>		DATE <b>12/30/87</b>	

JOHN O. SEILAN

January 10, 198

F11

RE: Shell Oil Company  
Zoning Petition No.: 89-237SPHY

Dear Mr. Haines:

Enclosed please find a memorandum in support of my client's Petition for Special Exception and Petition for Special Hearing. It is my understanding that Todd Suhre from Shell Oil has met with Pat Keller to resolve the concerns of the Office of Planning and Zoning. If there is anything further that you require, please do not hesitate to contact me.

Very truly yours

J. Neil Henry

J. Neil Lanzi

JNL:ps

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JAN 11 1989  
ZONING OFFICE

ZONING OFFICE

ZONING OFFICE

BALTIMORE COUNTY, MARYLAND

**INTER-OFFICE CORRESPONDENCE**

TO: J. Robert Haines  
Zoning Commissioner

FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning

SUBJECT: Shell Oil Company  
Zoning Petition No. 89-237-SPHY

Date: December 7, 1988

The applicant is requesting a special exception to allow for the creation of a convenience store facility within an existing non-conforming gas station. In reference to this request, staff provides the following information:

- The existing site currently has several problems that have existed for some time. A great deal of the site is paved and is generally inaccessible to the dumpsites. The access provided on the rear lot via adjoining parcels. The access provided spaces 10 and 11 can only be accessed via the use of the parking property. It appears as if an existing storage shed is actually located on an adjacent property. A great deal of unnecessary paving covers the site and is not required for the efficient functioning of this service station.

\* The general streetscape, screening, and landscaping of this property should be significantly upgraded.

Based upon information provided and analysis conducted, staff recommends approval of the applicant's request, subject to the following

- A streetscape plan should be reviewed and approved by the County Landscape Planner. In addition, screening of the dumpster and landscaping within the project site should also be reviewed prior to granting approval of the project.

The hours of operation for the convenience facility should coincide with the hours of operation for the facility.

PK/st

cc: J. Neil Lanyi, Eng

RECEIVED  
DEC 8 1988  
ZONING OFFICE

PLEASE PRINT CLEARLY

## PETITIONER(S) SIGN-IN SHEET

[illegible]

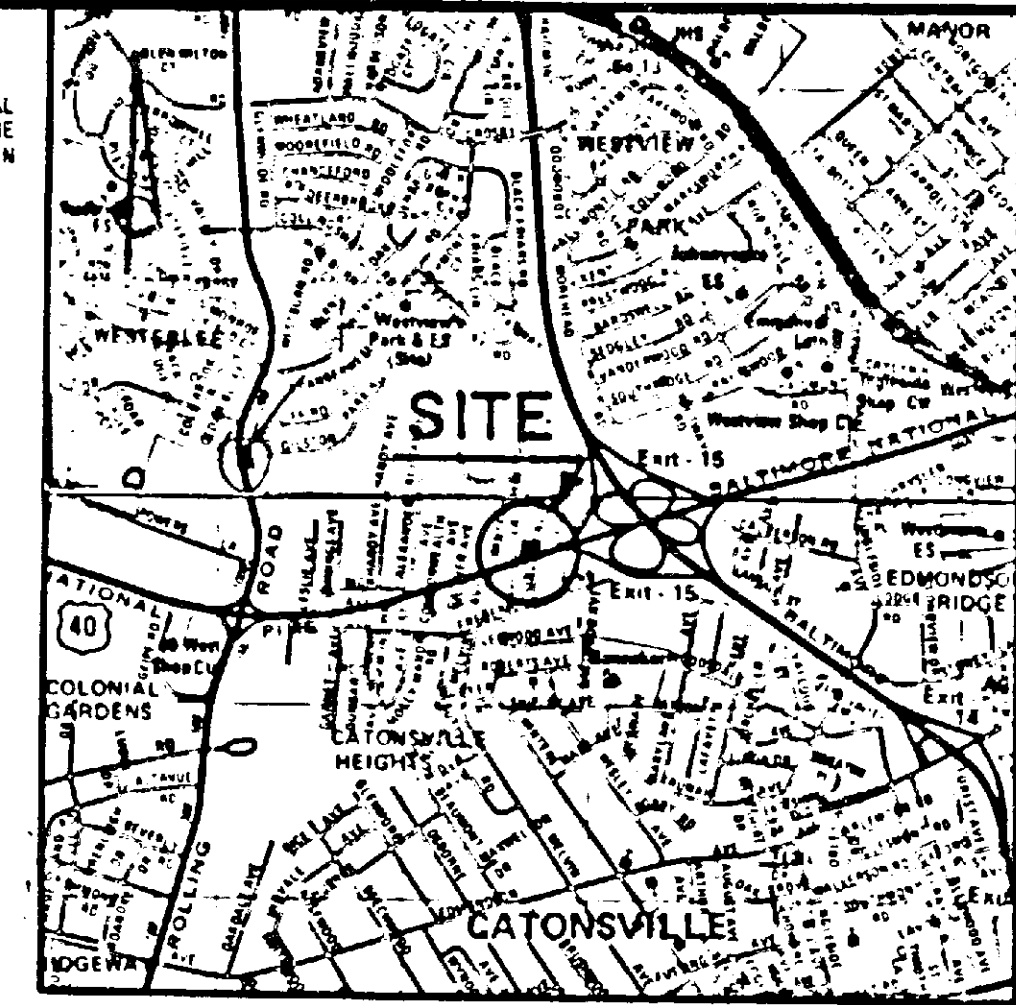
89-237SPH



ZONED: BR  
USE: COMMERCIAL

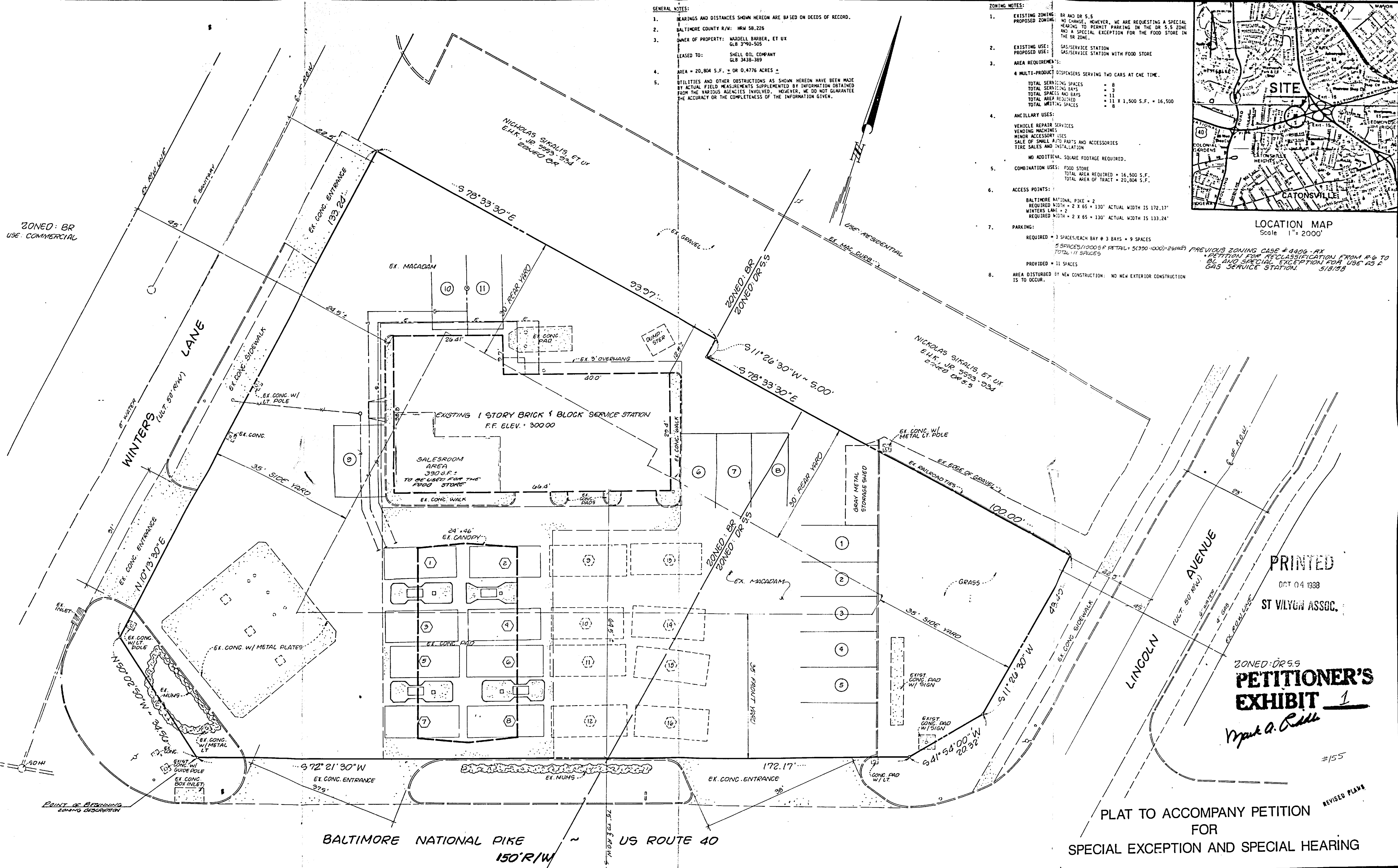
- GENERAL NOTES:
1. BEARINGS AND DISTANCES SHOWN HEREON ARE BASED ON DEEDS OF RECORD.
  2. BALTIMORE COUNTY R/W: HWY 50, 226
  3. OWNER OF PROPERTY: WARDELL BARBER, ET UX  
GLB 3740-505  
LEASED TO: SHELL OIL COMPANY  
GLB 3438-389
  4. AREA = 20,804 S.F. ± OR 0.4776 ACRES ±
  5. UTILITIES AND OTHER OBSTRUCTIONS AS SHOWN HEREON HAVE BEEN MADE BY ACTUAL FIELD MEASUREMENTS SUPPLEMENTED BY INFORMATION OBTAINED FROM THE VARIOUS AGENCIES INVOLVED. HOWEVER, WE DO NOT GUARANTEE THE ACCURACY OR THE COMPLETENESS OF THE INFORMATION GIVEN.

- ZONING NOTES:
1. EXISTING ZONING: BR AND DR 5.5  
PROPOSED ZONING: NO CHANGE, HOWEVER, WE ARE REQUESTING A SPECIAL HEARING TO PERMIT PARKING IN THE DR 5.5 ZONE AND A SPECIAL EXCEPTION FOR THE FOOD STORE IN THE BR ZONE.
  2. EXISTING USE: GAS/SERVICE STATION  
PROPOSED USE: GAS/SERVICE STATION WITH FOOD STORE
  3. AREA REQUIREMENTS:  
4 MULTI-PRODUCT DISPENSERS SERVING TWO CARS AT ONE TIME.  
TOTAL SERVICING SPACES = 8  
TOTAL SERVICING BAYS = 3  
TOTAL SPACES AND BAYS = 11  
TOTAL AREA REQUIRED = 11 X 1,500 S.F. = 16,500  
TOTAL WAITING SPACES = 8
  4. ANCILLARY USES:  
VEHICLE REPAIR SERVICES  
VENDING MACHINES  
MINOR ACCESSORY USES  
SALE OF SMALL AUTO PARTS AND ACCESSORIES  
TIRE SALES AND INSTALLATION  
NO ADDITIONAL SQUARE FOOTAGE REQUIRED.
  5. COMBINATION USES: FOOD STORE  
TOTAL AREA REQUIRED = 16,500 S.F.  
TOTAL AREA OF TRACT = 20,804 S.F.
  6. ACCESS POINTS:  
BALTIMORE NATIONAL PIKE = 2  
REQUIRED WIDTH = 2 X 65 = 130' ACTUAL WIDTH IS 172.17'  
WINTERS LANE = 2  
REQUIRED WIDTH = 2 X 65 = 130' ACTUAL WIDTH IS 133.24'
  7. PARKING:  
REQUIRED = 3 SPACES/EACH BAY @ 3 BAYS = 9 SPACES  
5 SPACES/1000 S.F. RETAIL = 5(390+1000) = 26 SPACES  
TOTAL = 35 SPACES  
PROVIDED = 11 SPACES
  8. AREA DISTURBED BY NEW CONSTRUCTION: NO NEW EXTERIOR CONSTRUCTION IS TO OCCUR.



LOCATION MAP  
Scale 1" = 2000'

PREVIOUS ZONING CASE # 4406 - RX  
PETITION FOR RECLASSIFICATION FROM R-6 TO  
BL AND SPECIAL EXCEPTION FOR USE AS A  
GAS SERVICE STATION. 5/8/93



PRINTED

OCT 04 1988

ST VILYON ASSOC.

ZONED: DR 5.5  
**PETITIONER'S  
EXHIBIT 1**

*Mark A. Riddle*

#155

PLAT TO ACCOMPANY PETITION  
FOR  
SPECIAL EXCEPTION AND SPECIAL HEARING



**STV / LYON ASSOCIATES**

Engineers Surveyors Planners

21 Governor's Court Baltimore, Maryland 21207

Telephone : 301-944-9112

REVISIONS

NO. DATE DESCRIPTION

PLAN PREPARATION

DRAWN BY: AEC

DATE: 9-20-88

DESIGNED BY: DMW

SCALE: 1" = 10'

CHECKED BY:

SHELL OIL COMPANY  
5932 BALTIMORE NATIONAL PIKE  
BALTIMORE COUNTY MARYLAND  
ELECTION DISTRICT 1

DRAWING NO.

8138-61

SHEET NO.

1 of 1